19 43

K

File No. Indus statistics II/43

Legal Dept

B **BRANCL**

Subject:–

Rules and Notifications

under the

Industrial statistics Act 1942

U 3/E

File No. Industrial statistic II/43

Gen. 194 e.

152 B

Office of the R.L.A.

The draft notification at page 55, as slightly amended, is in order.

2. The view taken by the Commissioner of Labour in paragraph no.6- 2 of his U.R.No.9243, dated 12th November 1942 on page 33 is correct.

Sd/-
11-2

Remembrancer of Legal Affairs.

M.R.D.
14-7-56
C.4

U.R. to P.&.S.D., No.1061 dated the 11th February 1943.

Political and Services Department
Bombay Castle, February 1943.

Industrial Statistics Act, 1942.

No. In exercise of the powers conferred by sub-section Government of Bombay is pleased to direct that the said Act shall come into force in the Province of Bombay on the 1st March 1943.

By order of the Governor of Bombay

Secretary to Government.

M.R.D.
15-7-56
C.4

Office of the R.L.A.

In this office U.R.No.123-confl., dated the 11th March 1943 the G.D. was asked to verify whether the draft notification sent along with it carried out its intention. The G.D. referred the draft notification to the Director of Industries. In his note dated the 26th March 1943 at pages 75-76 ante the Director of Industries states that the information relating to factories required to be collected should be as indicated in Schedule A. Schedule A refers to information under the following main headings, namely,(1)Capital Invested Productively,(2)Industrial Production,(3)Raw Materials,(4)power machinery and Cost of Engergy,(5)Industrial Employment. The draft already supplied will not cover information under all the headings mentioned above and it will be necessary to amplify the draft notification. It will be also necessary to amplify the notification relating to the appointment of the Director of Industries. Draft notifications at Pages 71and 73 as amplified in pencial would be in order.

Sd-P.N.M.
Remembrancer of Legal Affairs.

R.D.
7-56
C.4

U.R.to G.D., No.2442,dated the 2nd April 1943.

Notification.
General Department,
Bombay Castle, March 1942.

Industrial Statistics Act 1942.

No.4190/33 -In exercise of the powers conferred by section 4 of the Industrial Statistics Act, 1942(XIX of1942), the Government of Bombay is pleased to appoint the Director of Industries, Bombay, to be the statistics authority, for the purposes of the collection of statistics relating to the following matters relating to factories in the Province of Bombay, namely:-

(1) Captial employed,
(2)Production of articles or things,
(3)Raw Materials used,
(4)Power machinery used and cost of energy used,
(5)Persons employed and the salaries or wages paid to them during any particular period.

By order of the Governor of Bombay,

Secretary to Government.

M.R.D.
14-7-56
C.4

Office of the R.L.

A REVISed draft notification is sent herewith.

2. G.D.draft rules 1 and 2-As explained below most of the provisions in the G.D. draft rules arex either unnecessary or ultra vires of the Act and have been omitted and in view of the omission of those provisions no definition clause or short title to the ~~rule~~ rules in necessary.

3. G.D.draf rule 3 Under section 5(1)of the Industrial Statistics Act, 1942,the statistics authority has been given power to cause the notice calling for returns or infromation to be served by any person it chooses but under that section it has no power to appoint any person for the purpose of calling for returns or infromation. That power has to be exercised by the statistics authority itself. The provision in the G.D. draft rule authorising the agent of the statistics authority or any person authorised by it to call for returns and information is ultra vires,of the Act and has been omitted. The provision in the rule that the return may be submitted in any other form approved by the statistics authority or its agent is also ultra vires, since under section 5 ~~xxif~~ the form of the retu return has to be prescribed by the Government in the rule itself and cannot be left to be determined by the statistics authority or any other person.

4.G.D.draft rule 4- Sub-section(2)of section 5 provides that the notice referred to in sub-section(1)may be served by post. The provision gives express power to serve notice by post but it does not debar any other method of service allowed by law. It is not necessary to prescribe in the the rules any other methods of serving the notice.

5-G.D.draft rule 5- This rule gives power to the statistics authority or his agent to demand the due filling in of forms by a specified date. As stated before the agent of the statistics authority has no power to call for returns under the Act. Secondly, the statistics authority has no power to appoint any date by the which the returnex must be submitted. That date will have to be specified by Government in the rule itself in view of the clear language of section 5(1)

P.T.O.

6. G.D. draft rule 6. Clause(a)and(b)of this rule reproduce the provisions of section 6 of the Act and are therefore unnecessary. Clause(c)of the G.D. rule provides that no person shall remove or cause to be removed from the premises of any establishment or factory or house any record or document which the statistics authority or its agent declares to be irremoveable. There is no provision in the Act giving such powr to the statistics authority or its agent or any person authorised by it in that behalf. Thex The provision in ultra vires of the Act and has been omitted.

7. G.D.draft rule 7 The power given to the statistics authority by clause(a)of the rule is contained in section 6 of the Act and no rule in the matter is necessary. Clause(b) of the rule is unnecessary in view of the provisions contained in section 8(c)of the Act

8. G.D.draft rule 8- The proposed Schedule does not contain at the foot any form for the declaration of the truth of the return. In view of the provisions of clause(b) of section 8 no such declaration is necessary. It is also doubtful whether in the absence of the a provision in the in the Act on the lines of section 3(1) of the Cotton Industry(Statistics) Act, 1926,a person sub-mitting a return can be required to subscribe a declaration of the turth The rule has therefore been omitted.

G.D. draft rule 10- Under section 9 of the Act a person engaged in connection with the collection of statistics and disclosing any information or the contents of any return given or made under the Act otherwise than in the execution of his duties is liable to punishinet. In view of this provision this rule is unnecessary and nas been omitted.

10. In view of the position stated above only one rule prescribing the matters referred to in sections 5(1)remains. Under section 5 it will be necessary to specify in the rule itself the form of the information or return and the intervals at which, the authority to which the manner in which and the times at wnich the returns should be submitted. A revised draft rule embodied ina draft notification is sent herewith. G.D. should therein specify the date on or before which the return should be submitted by the person concerned to the statistics authority.

11. As

11. As regards the Schedule, it can be appended as a Form to the revised draft rule. In view of the ruling of the Government of India contained in their letter in the Department of Industries and Civil Supplies No.103-IS.I./43 dated 3rdNovember 1943,it will not be possible to obtain statistics relating to any past years as proposed in the draft schedule. G.D. may obtain a complete copy of the Government of India's ruling if possible, and revise the schedule in the light of that ruling. Securityny of the Schedule in L.D.' is therefore deferred.

Sd/-P.N.M.
22-11

Remembrancer of Legal Affairs.

M.R.D.
14-7-56
C.4

U.R. to G.D.No.8643,dated the 22nd November 1943.

Office of the R.L.A.

The relevant portion of the draft rule(see page 49) suppli supplied by the R.L.A. with his opinion No.8643,dated the 22nd November 1943 at page 47, as proposed to be amended by the Director of Industries at 'A' of his note. at page 51 would run as follows:-

"The statistics authority may serve .....on any person connected with a factory a notice in writing requiring such person to furnish to him ..... a return in the Form containing the particulars supplied by him from time to time.".

This means that the particulars in the Form of return to be furnished by a person under the rule will be settled by the statistics authority from time to time. As already explained in para 10 of the said opinion of the R.L.A. , under section 5 of the Industrial Statistics Act, 1942(XIX of 1942), the information required to be furnished thereunder must be in such form and with such particulars, as may be prescribed. "Prescribed' has been defined in section 2 to mean prescribed in rules made under the Act or in any form prescribed by those rules. The particulars in the form are part of the Form and cannot be left to be determined from time to time to by the Director of Industries. The amendment proposed by the Director of Industries is therefore not legally feasible.

Sd/-P.N.M.
Remembrancer of Legal Affairs.

M.R.D.
18-7-56
C.4

U.R. to G.D.No.9497dated the 28th December 1943.

8644 2nd nov. 1943.

SVA 3/12

DHS 3/8